

**AGREEMENT FOR DISPOSITION OF KANSAS STATE BOARD OF NURSING
DISCIPLINARY CASE NUMBER 16-1461-7 AND AGREED FINAL ORDER**

The Kansas State Board of Nursing ("Board"), represented by Assistant Attorney General, Rachel C. Kenney-Townsend, and Edgar Lee Nicholson ("Licensee"), Kansas License No. 13-91780-012, represented by Andrew M. Moskow, hereby enter into this Agreement for Disposition of Kansas State Board of Nursing Disciplinary Case Number 16-1461-7 and Agreed Final Order ("Agreement and Order"):

1. Licensee is licensed to practice nursing in the State of Kansas. The Board has jurisdiction over the Licensee and the subject matter of this action.
2. Licensee understands that he may be represented at Licensee's expense by an attorney during these proceedings.
3. After an investigation, the Board's investigative committee found reasonable grounds to believe that the Licensee violated the Kansas Nurse Practice Act, K.S.A. 65-1120, and referred disciplinary case number 16-1461-7 for further proceedings.
4. Pursuant to K.S.A. 65-1120(a), the Board "may deny, revoke, limit or suspend any license or authorization to practice nursing ...or may require the licensee to attend a specific number of hours of continuing education in addition to any hours the licensee may already be required to attend or may publicly or privately censure a licensee."
5. Pursuant to K.S.A. 74-1110 the Board may also "assess a civil fine...against any person granted a license... for a violation of law or rule and regulation applicable to the practice for which such a person has been granted a license...not to exceed \$1,000 for the first violation."
6. The role of the Board is to protect citizens of Kansas.

7. Licensee has the right to a hearing with evidence and witnesses and to seek review of the findings from that hearing in accordance with the Kansas Administrative Procedure Act and to review of the agency action under the Kansas Judicial Review Act. Licensee is waiving those rights and voluntarily entering into this Agreement and Order instead of proceeding to further hearing or review.
8. By entering into this Agreement and Order, both parties waive their right to administrative proceedings pursuant to K.S.A. 65-1120 and K.S.A. 77-501 et seq. and to judicial review.

PROCEDURAL HISTORY

9. On or about March 19, 2019, the Board filed a petition with the Office of Administrative Hearings ("OAH"), OAH case no. 19BN0043, alleging Licensee violated the Kansas Nurse Practice Act ("KNPA") and requested the revocation of Licensee's Kansas nurse license.
10. On or about August 5, 2019, the Licensee and Board jointly filed a *Proposed Conclusion of Law*.
11. On June 29, 2021, the ALJ filed *Initial Order* revoking Petitioner's license and ordered him to pay \$100 in costs.
12. On or about July 9, 2021, Licensee filed a *Petition for Review* with the Board.
13. On July 30, 2021, the Board filed an *Order* to not review the *Initial Order* and incorporated the *Initial Order* as a final order.
14. On Aug. 20, 2021, Licensee filed a *Petition for Stay* with the Board.

15. On August 23, 2021, Licensee filed a *Petition for Judicial Review*. The Board and the Licensee now enter into this Agreement and Order to conclude this matter. The parties agree and understand that this Agreement and Order is meant to replace any prior initial and/or final orders made by the Board for KSBN case no. 16-1461-7 and OAH case no. 19BN0043. Nothing in this Agreement and Order shall prohibit the Board from taking any action against Licensee's license for any additional or cumulative violation of the Kansas Nurse Practice Act committed by the Licensee before or after this Agreement and Order is entered into. The terms of this Agreement and Order are limited to only the stipulated facts and violations provide in paragraph 16 and 17 of this Agreement and Order.

AGREED FINDINGS OF FACT

16. The Licensee stipulates to the following facts:
- a. On or about May 1, 2017, the Board and the Licensee entered into a Diversion Agreement, where Licensee agreed to complete eight employer quarterly reports. Per the terms of the agreement, the reports were to be sent by the employer to the Board, "on the following schedule: the 10th day of each of the months of April, July, October, and January." These reports were supposed to be, "prepared and signed by licensee's immediate supervisor who evaluates licensee's performance on a regular basis."
 - b. On or about July 5, 2017, the Board received an employer quarterly report, dated July 1, 2017, signed by Heather Cairns ("Cairns"). ("First Report"). The First Report was on DaVita Olathe Dialysis ("DaVita") letterhead.

- c. On or about October 4, 2017, the Board received an employer quarterly report, signed by Cairns ("Second Report"), on DaVita letterhead. The first line of this report states, "[T]his letter serves as Nick Nicholson's, license # 13-91780-012, first quarterly employment report to the Kansas State Board of Nursing," the word "first" is crossed out and the word "second" is written above. Licensee altered this report without Cairns' knowledge or consent; and failed to disclose to the Board that he made these alterations.
- d. On or about January 5, 2018, the Board received an employer quarterly report, signed by Cairns. ("Third Report"), on DaVita letterhead. The first line of this report states, "[T]his letter serves as Nick Nicholson's, license # 13-91780-012, first quarterly employment report to the Kansas State Board of Nursing," the word "first" is struck through and the word "third" is written above. Licensee altered this report without Cairns' knowledge or consent; and failed to disclose to the Board that he made these alterations.
- e. On or about March 26, 2018, the Board received an employer quarterly report, ("Fourth Report"), signed by Cairns, not on DaVita letterhead. The typed date that is in April 2018 is handwritten over and is illegible. Licensee altered this report without Cairns' knowledge or consent; and failed to disclose to the Board that he made these alterations.
- f. On or about July 2, 2018, the Board received an employer quarterly report ("Fifth Report"), signed by Cairns, not on DaVita letterhead. The typed date, August 10, 2018, has August crossed out, with a handwritten July written above. Licensee

altered this report without Cairns' knowledge or consent; and failed to disclose to the Board that he made these alterations.

- g. On or about October 3, 2018, the Board received an employer quarterly report ("Sixth Report"), signed by Cairns, not on DaVita letterhead. The typed date, December 10, 2018, has December crossed out, with a handwritten "Oct" written above. Licensee altered this report without Cairns' knowledge or consent; and failed to disclose to the Board that he made these alterations.

CONCLUSIONS OF LAW

17. Licensee stipulates that, based upon the above agreed findings of fact, that he has violated the Kansas Nurse Practice Act:

- Count 1:** K.S.A. 65-1120(a)(7) and K.A.R. 60-3-110(d) "to be guilty of unprofessional conduct as defined by rules and regulations of the board;" to wit, "inaccurately recording, falsifying, or altering any record of a patient or agency or of the board."
- Count 2:** K.S.A. 65-1120(a)(1), "To be guilty of fraud or deceit in practicing nursing or in procuring or attempting to procure a license to practice nursing."

DISPOSITION

18. The Board will not take additional disciplinary action against Licensee's nursing license for the violations stated above as long as Licensee completes each of the following conditions and requirements:
- a. Licensee shall dismiss all pending requests for judicial review upon this Agreement and Order being executed.
- b. Licensee shall immediately inform all employers and prospective employers of this Agreement and Order. This requirement shall last until such time as the Board inactivates this case as set out below.

- c. Licensee's license shall be suspended for sixty (60) days after this Agreement and Order becomes effective. Licensee shall not practice nursing in the state of Kansas while his license is suspended. After the expiration of the sixty (60) day suspension, Licensee shall send written request to the Board, requesting the suspension to be lifted.
- d. Licensee shall pay a disciplinary fine of \$500.00 within sixty (60) days of this order becoming effective.
- e. Licensee shall send a money order for \$350.00 to the Board upon this Agreement and Order being executed to pay the cost of this action.
- f. Licensee shall not violate the Kansas Nurse Practice Act during the duration of this Agreement and Order.
- g. Licensee shall not violate the laws of the United States, or State, or of any political subdivision of any State during the term of this Agreement and Order.

Traffic infractions shall not be considered violations of the law.

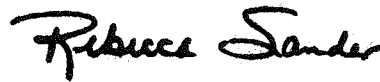
19. Based upon this Agreement and Order, and pursuant to the disciplinary remedies available in K.S.A. 65-1120, the parties agree that this Agreement and Order will continue through any renewal periods of Licensee's nursing license until Licensee completes each of the conditions and requirements of this Agreement and Order. Further, the parties agree that in the event of a lapse of Licensee's nursing license, reinstatement of Licensee's nursing license shall be contingent upon this Agreement and Order remaining in effect until Licensee completes each of the conditions and requirements of this Agreement and Order.

20. Licensee acknowledges and agrees that Licensee is responsible for the costs related to satisfying the conditions and requirements of this Agreement and Order. Licensee further acknowledges and agrees that to provide the Board with false information regarding compliance with this Agreement and Order is a violation of this Agreement and Order.
21. If Licensee does not meet these conditions and requirements, the Board may request additional sanctions against Licensee's license or application for a license. Licensee would be sent notice of such action and would be entitled to a hearing as to whether Licensee had complied with this Agreement and Order, but Licensee could not contest the facts or violations listed in this Agreement and Order.
22. All parties understand that if an action based on failure to meet the conditions and requirements of this Agreement and Order, K.S.A. 77-531 requires the Notice of Hearing to be served upon Licensee and Licensee's attorney of record, if any. All parties agree that only serving the Notice of Hearing upon the Licensee will be proper service and it is the Licensee's responsibility to contact his or her attorney, if any, in reference to the action.
23. The Board will inactivate this case file once Licensee satisfies this Agreement and Order. This Agreement and Order does not prohibit the agency from taking disciplinary action against Licensee's license for any additional or cumulative violation of the Kansas Nurse Practice Act committed by the Licensee before or after this Agreement and Order is executed.
24. This Agreement and Order is a discipline and must be reported on any future renewal or applications with the Board. The original of this Agreement and Order shall be placed in

the Agency Record. This Agreement and Order is a public record and will be reported to national disciplinary data banks.

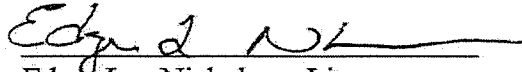
25. After successful completion of all of the conditions and requirements of this Agreement and Order by Licensee, the Agreement and Order will be satisfied and the case will be inactivated.
26. By entering into this Agreement and Order, Licensee acknowledges that Licensee has read and understands the entire document, and agrees to be bound by its terms. This Agreement and Order constitute the entire agreement of the parties and supersedes any prior agreements or orders by the Board in this matter and may not be modified except in writing and approved by all parties. The effective date of this Agreement and Order is the date shown on the certificate of service.
27. Disciplinary counsel shall serve a copy of this order upon the Licensee.

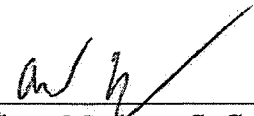
IT IS SO ORDERED.

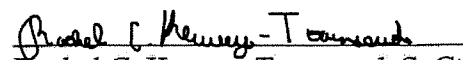


Rebecca Sander, MSN, RN
Investigative Committee Chair
Kansas State Board of Nursing

APPROVED BY:


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CERTIFICATE OF SERVICE

On the 14th day of June 2022, I caused a copy of this AGREEMENT FOR DISPOSITION OF KANSAS STATE BOARD OF NURSING DISCIPLINARY CASE NUMBER 16-1461-7 AND AGREED FINAL ORDER to be mailed to:

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Rachel C. Kenney-Townsend
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